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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,780	09/23/2004	Martin Kaspar	016906-0339	8499

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EXAMINER	
NALVEN, EMILY IRIS	
ART UNIT	**PAPER NUMBER**
3744	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/508,780	KASPAR ET AL.	
	Examiner	Art Unit	
	Emily I. Nalven	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *Sept. 23, 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *Sept. 23, 2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: element 13 of Fig. 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. **Claims 1, 10, 13 and 20** are objected to because of the following informalities:

In regard to claim 1, the recitation "parallel with it and in" (line 4) is presumed to be -- parallel with the coolant condenser tubes --.

In regard to claim 10, the recitation "parallel with it and in" (line 4) is presumed to be -- parallel with the coolant condenser tubes --. The recitation "such as in particular an injection" (line 9) is presumed to be -- an injection --.

In regard to claim 13, the recitation "it being possible to insert" (lines 3-4) is presumed to be -- to insert --.

In regard to claim 20, the recitation "it being possible to insert" (line 3) is presumed to be -- to insert --.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-5, 8-17 and 20-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Mittelstrass (US Patent No. 5,992,174).

In regard to claim 1, Mittelstrass teaches a coolant condenser (1) (col 3 lines 14-16) having a network of tubes (20) and ribs (20) (col 3 lines 14-16 and see Fig. 2, additionally the tubes and ribs are connected and both referred to by reference number 20 although they can be seen as distinct elements in Fig. 2), collecting tubes (1) arranged on both sides of the network (4) and having a collector (collector profile 1) which is connected to one of the collecting tubes (20) by means of at least one inflow (21) opening (col 3 lines 17-19) and at least one outflow (22) opening (col 3 lines 17-19) and is arranged in parallel with the coolant condenser tubes (20) (see Fig. 2).

Mittelstrass also teaches an insert (6) which is connected to a closure stopper (5) (col 3 lines 25-26) and has a filter (7) means is arranged (col 3 lines 32-35 and see Fig. 2), the insert (3) having a circumferential sealing means (col 3 lines 48-49) which is arranged between the inflow opening (21) and the outflow opening (22) (see Fig. 2), and the closure stopper (5) being arranged in the region of the outflow opening (22). It is presumed that "in the region of" means that the closure stopper (5) is in the same coolant condenser system.

Mittelstrass also teaches that the filter means (7) is embodied as a separate insert (col 3 lines 38-39) and as a functional unit and is arranged in the region of the outflow opening (see Fig. 2).

In regard to claim 2, Mittelstrass teaches the coolant condenser (1) characterized in that the insert (6) is of pot-shaped design and has a bottom, a wall and an edge (see Fig. 2, Fig.3 , Fig. 4 and col 3 lines 36-40). Mittelstrass also teaches the wall having window-like breakthroughs which are covered by filter sieves and the sealing means which is embodied as a circumferential sealing lip being arranged at the edge (col 3 lines 36-40).

In regard to claim 3, Mittelstrass teaches a coolant condenser (1) characterized in that the insert (6) is connected to the closure stopper (5) in a detachable fashion by means of a clip connection (col 3 lines 66-67 and col 4 lines 1-5).

In regard to claim 4, Mittelstrass teaches the coolant condenser (1) characterized in that the insert (6) is embodied in one piece with the enclosure

stopper (5). It is interpreted that "embodied" means incorporated. Therefore the insert (6) and enclosure stopper (5) are both incorporated into the same coolant condenser system as one unit.

In regard to claim 5, Mittelstrass teaches the coolant condenser characterized in that the insert and the closure stopper are manufactured as an injection molded part. However, where a product by process claim is rejected over a prior art product that appears to be identical, although produced by a different process, the burden is upon the applicants to come forward with evidence establishing an unobvious difference between the two. See *In re Marosi,* 218 USPQ 289 (Fed. Cir. 1983).

In regard to claim 8, Mittelstrass teaches the coolant condenser (1) characterized in that the outer surface of the pot-shaped wall form with the inner wall of the collector in the region of the outflow opening (22) an annular chamber (col 3 lines 48-50) and the inner surface of the pot-shaped wall and of the closure part (5) form a free cavity (see Fig. 2).

In regard to claim 9, Mittelstrass teaches the coolant condenser (1) characterized in that desiccant in the form of small bags of granulate is positioned above the insert (col 3 lines 44-46 where a granular dryer filling is provided as a desiccant). It is inherent that "a filling" (col 3 lines 45) must be placed in some sort of bag because if the filling were floating around without being placed into a bag storage unit it would float aimless in the coolant condenser and get stuck in the filter causing problems for the entire system.

In regard to claim 10, Mittelstrass teaches a coolant condenser (1) (col 3 lines 14-16) having a network of tubes (20) and ribs (20) (col 3 lines 14-16 and see Fig. 2, additionally the tubes and ribs are connected and both referred to by reference number 20 although they can be seen as distinct elements in Fig. 2), collecting tubes (1) arranged on both sides of the network (4) and having a collector (collector profile 1) which is connected to one of the collecting tubes (20) by means of at least one inflow (21) opening (col 3 lines 17-19) and at least one outflow (22) opening (col 3 lines 17-19) and is arranged in parallel with the coolant condenser tubes (20) (see Fig. 2).

Mittelstrass also teaches that an insert (6) which is connected to a closure stopper (5) has a drying and filter means is arranged (col 3 lines 32-35), the insert (6) having a circumferential sealing means (col 3 lines 36-37) which is arranged between the inflow opening (21) and the outflow opening (22) (see Fig. 2), and the closure stopper (5) being arranged in the region of the outflow opening (22) (see Fig. 2). It is presumed that "in the region of" means that the closure stopper (5) is in the same coolant condenser system.

Mittelstrass also teaches that the closure stopper (5) is characterized in that it (the closure stopper 5) is embodied as a single-piece (see Fig. 2) injection molded component, which is composed of the closure stopper (5) and a cage-like sleeve (col 3 lines 32-34).

However, where a product by process claim is rejected over a prior art product that appears to be identical, although produced by a different process, the burden is upon the applicants to come forward with evidence establishing an unobvious difference between the two. See *In re Marosi,* 218 USPQ 289 (Fed. Cir. 1983).

In regard to claim 11, Mittelstrass teaches the coolant condenser (1) characterized in that the sleeve has window-like breakthroughs, which are covered by filter sieves (7) (col 3 lines 36-39).

In regard to claim 12, Mittelstrass teaches coolant condenser (1) characterized in that the closure stopper (5) has circumferential annular grooves for receiving O rings (col 3 lines 29-31).

In regard to claim 13, Mittelstrass teaches an insert part (6) for a collector of a condenser (1) of an air-conditioning system for motor vehicles (col 3 lines 14-16 and lines 31-35), composed of a closure stopper (5) and a filter part (7) which is connected to the closure stopper (5) and has a circumferential sealing means (col 3 lines 29-31 and lines 36-39 and see Fig. 2).

Mittelstrass also teaches that it is possible to insert the insert part (6) from an end side of the collector (1) (col 3 lines 32-34), characterized in that the filter part (7) is embodied as a separate insert and functional unit (col 3 lines 36-39).

In regard to claim 14, see the above rejection for claim 2.

In regard to claim 15, see the above rejection for claim 3.

In regard to claim 16, see the above rejection for claim 4.

In regard to claim 17, see the above rejection for claim 5.

In regard to claim 20, Mittelstrass teaches an insert part (6) for a collector of a condenser (1) of an air-conditioning system for motor vehicles (col 3 lines 14-16 and lines 31-35), composed of a closure stopper (5) and having a dryer/filter cartridge (7) which is connected to the closure stopper (5) (col 3 lines 29-31 and lines 36-39 and see Fig. 2).

Mittelstrass also teaches that it is possible to insert the insert part (6) from an end side of the collector (1) (col 3 lines 32-34), characterized in that the insert part (6) is embodied as a single-piece part which is composed of the closure stopper (5) and a cage-like device (col 3 lines 32-34).

Mittelstrass doesn't explicitly teach that the insert is injection molded, however, where a product by process claim is rejected over a prior art product that appears to be identical, although produced by a different process, the burden is upon the applicants to come forward with evidence establishing an unobvious difference between the two. See *In re Marosi,* 218 USPQ 289 (Fed. Cir. 1983).

In regard to claim 21, see the above rejection for claim 11.

In regard to claim 22, see the above rejection for claim 12.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 6-7, 18-19 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mittelstrass (US Patent No. 5,992,174) in view of Stampfl et. al. US Patent No. (6,242,163 B1).

In regard to claim 6, Mittelstrass teaches the coolant condenser but doesn't explicitly teach that the injection molded part in manufactured from plastic. A recitation with respect to the material intended to be worked upon by a claimed apparatus does not impose any structural limitations upon the claimed apparatus that differentiates it from a prior art apparatus satisfying the structural limitations of the claims, as is the case here.

Stampfl et. al. teach that an injection mold is used to make plastic parts (col 7 lines 8-10). It would have been obvious to one of ordinary skill in the art to combine the coolant condenser insert and stopper as taught by Mittelstrass are made from injection molded plastic parts as taught by Stampfl et. al. because using an injection mold one can have an ideal fit for the size and shape of the coolant condenser without loosing refrigerant and compromising the efficiency of the system.

In regard to claim 7, Mittelstrass teaches the coolant condenser characterized in that the injection molded part is manufactured from an aluminum alloy. A recitation with respect to the material intended to be worked upon by a claimed apparatus does not impose any structural limitations upon the claimed apparatus that differentiates it from a prior art apparatus satisfying the structural limitations of the claims, as is the case here.

Stampfl et. al. teach that an injection mold is used to make metal parts (col 7 lines 8-10) wherein an aluminum alloy is metal based. It would have been obvious to one of ordinary skill in the art to combine the coolant condenser insert and stopper as taught by Mittelstrass are made from injection molded metal parts as taught by Stampfl et. al. because using an injection mold one can have an ideal fit for the size and shape of the coolant condenser without loosing refrigerant and compromising the efficiency of the system.

In regard to claim 18, see the above rejection for claim 6.

In regard to claim 19, see the above rejection for claim 7.

In regard to claim 23, see the above rejection for claim 6.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily I. Nalven whose telephone number is 571-272-3045. The examiner can normally be reached on Monday - Thursday 8 AM - 5:30 PM and on alternate Fridays 8 AM – 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisors Cheryl J. Tyler can be reached on 571-272-4834 and Frantz Jules can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Emily Iris Nalven
Art Unit 3744
June 4, 2007

FRANTZ JULES
SUPERVISORY PATENT EXAMINER